

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

7

DECISION

TOPIC

**Contract - 28E Agreement between DNR and the Iowa
Department of Revenue**

The Environmental Protection Commission's approval is requested to enter into a new 28E Agreement with the Iowa Department of Revenue (IDR) to establish an effective system for the collection of debts owed to the DNR. IDR is authorized by the Code of Iowa to provide these collection services to state agencies, and Iowa Code Chapter 28E (2005) authorizes state agencies to contract with one another.

Pursuant to the terms of the Agreement, the DNR would pay IDR not more than 15% of the total debt collected. Either party would be able terminate the agreement upon 30 days' written notice.

During the term of prior similar agreements, the DNR was able to identify savings, both in terms of better utilization of staff resources and better debt collection. DNR staff was spending less time collecting debts and more time focusing resources on program goals. IDR, with its specialized expertise and tools, was more successful in its overall collection efforts than was DNR staff, resulting in an increase in the total collection of debts. Last fiscal year, IDR collected over \$100,000 for the DNR.

Attachment

Ed Tormey, Chief
Legal Services Bureau
January 12, 2007

Prepared by: Edmund J. Tormey, Chief Counsel, Iowa Department of Natural Resources, Henry A. Wallace Building, Des Moines, IA 50319, Phone: 515-281-8973, Fax: 515-281-8895. Return and Bill to: Same.

INTERAGENCY 28E AGREEMENT BETWEEN THE DEPARTMENT OF NATURAL RESOURCES AND DEPARTMENT OF REVENUE

THIS AGREEMENT, between the Iowa Department of Natural Resources (DNR) and the Iowa Department of Revenue (IDR) is duly authorized by and compliant with the requirements of Iowa Code Chapter 28E (2005).

W I T N E S S:

That IDR and DNR executed an agreement (Prior Agreement) to establish an effective system for collection of debts owed to the DNR;

That said agreement was recorded by Polk County, in book 11671 on page 599-602, on May 26, 2006; and

That said agreement was recorded by the Iowa Secretary of State on June 6, 2006, and entered into full force on the same.

THEREFORE:

In consideration of mutual promises and covenants herein contained, the parties agree as follows:

Section 1. **PURPOSE.** The purpose of this Agreement is establish an effective system for collection of debts owed to the DNR and that set forth the terms and conditions between the IDR and DNR for collecting unpaid debts, including all principal, interest, collection costs, penalties, court costs, fees and surcharges, in accordance with the procedures specified in Iowa Code Section 421.17(22 & 27).

Section 2. **PRIOR AGREEMENTS.** This Agreement shall terminate and supersede the terms of the Prior Agreement.

Section 3. **STATUTORY AUTHORITY.** This Agreement is made pursuant to statutory authority granted to the parties pursuant to Iowa Code section 28E.4 (2005) and Iowa Code Section 421.17(22&27) (2005).

Section 4. **CONDITIONS.**

This Agreement shall be bound by the requirements of 701 Iowa Admin. Code 151 and subject to the following terms:

A. The DNR shall:

1. Submit a request to IDR for it to perform its obligations pursuant to this Agreement for each debtor for which DNR determines IDR's services are needed. Such request shall include, to the extent it is available, the following information about the debtor: full name(s); mailing address(es); identification number(s); telephone number(s); debt amount(s) owed; and such other information the DNR may possess.
2. Notify IDR of any changes in the status of a debt no later than ten calendar days from the occurrence of the change.
3. Compensate IDR for its performance consistent with Section 5 of this Agreement.

B. The IDR shall:

1. Utilize all reasonable and lawful collection efforts to secure payment of debt obligations assigned by the DNR, specifically by, but not limited to:
 - a. Informing the debtor of the balance due the DNR, including all costs and fees imposed therewith, upon IDR's contact with the debtor.
 - b. Attempting to arrange immediate full payment of the debtor's obligation.
 - c. Establishing reasonable and affordable payment arrangements allowing the debtor to pay the debt in installments, if IDR determines the debtor cannot pay the full amount due immediately.
2. Comply with all applicable state and federal laws governing collection of debt in executing its collection practices. The IDR and the DNR are both agencies of the State of Iowa and therefore no third-party collection relationship exists.
3. Have established procedures for receiving and acting on complaints regarding collection activities.
4. Assist the DNR in resolving complaints regarding IDR's collection activities for DNR.

Section 5. COLLECTION FEE. For purposes of this section, the term "payments" shall be defined to include cash, checks, money orders and other financial instruments, or tax or vendor "offsets."

- A. DNR shall pay IDR a collection fee of not more than fifteen (15) percent (Collection Fee) of any full or partial payments made to either the IDR or to the DNR subsequent to IDR's receipt of request, as described in Section 4(A)(1) of this Agreement, and commencement of collection

activity.

- B. The IDR shall produce at least monthly reports that itemize all collections upon which the IDR would be entitled to the Collection Fee and/or have assessed such Collection Fee.
- C. The IDR shall transfer total collected amounts less the Collection Fee to the DNR monthly with the report, described in Section 5(B) of this Agreement, detailing the collection actions for the month.
- D. In the event the DNR receives a payment subject to IDR's receipt of a Collection Fee directly, DNR shall pay IDR the Collection fee for such payment within 30 calendar days and shall notify IDR of the change in status of the debt, consistent with Section 4(A)(2) of this Agreement.

Section 6. DURATION; TERMINATION. The term of this Agreement shall be from the date of commencement until either party terminates this Agreement. The termination shall not be effective until thirty (30) days after notice is received by the other party. Upon termination of this Agreement, the IDR shall return within thirty (30) days to the DNR all records held by the IDR and transfer to the DNR any documents or records which pertain to this Agreement. Federal or State legislative or administrative action which renders this Agreement void or which makes compliance impossible shall terminate this Agreement.

Section 7. NO SEPARATE LEGAL OR ADMINISTRATIVE ENTITY; ADMINISTRATION. By this Agreement the parties do not intend to create a separate legal or administrative entity. Each signatory to this Agreement is responsible to administer its interests in this Agreement.

Section 8. PROPERTY. The parties agree that no real property shall be acquired, maintained or disposed of as a result of this Agreement.

Section 9. GOVERNING LAW. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Iowa. Nothing herein shall be construed to relieve any party of any obligation or responsibility imposed upon it by law.

Section 10. AMENDMENTS. This Agreement may not be changed except by an amendment hereto in writing signed by the parties hereto. If this Agreement is amended, any amendment thereto shall expressly include the county index numbers of this Agreement provided upon recording and shall be recorded consistent with the requirements of Iowa Code Chapter 28E (2005) and Section 11 of this Agreement.

Section 11. RECORDING. Upon execution the DNR shall file a copy of this Agreement with the Iowa Secretary of State and cause the same to be recorded in the Office of the County Recorder of Polk County, as required by Iowa Code Section 28E.8 (2005).

Section 12. CONFIDENTIALITY. The IDR and DNR shall institute procedures, compliant with Iowa Code Chapter 22 (2005), to insure that adequate safeguards are

established to provide protection against unauthorized access or disclosure of information received pursuant to and in accordance with this Agreement.

Section 13. APPROVAL; AUTHORIZATION. By their signatures below, the representatives of the respective parties confirm that this Agreement has been approved and its execution authorized by the respective duly authorized officers or governing bodies of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed on their behalf by their duly authorized officers all as of the Dated Date.

This agreement is entered into under the authority of the Natural Resource Commission as decided at its regular meeting on the ____ day of _____ 20__, and as shown in the minutes thereof, and under the authority of the Environmental Protection Commission as decided at its regular meeting on the ____ day of _____ 20__, and as shown in the minutes thereof.

IOWA DEPARTMENT OF NATURAL RESOURCES

BY: _____
Richard Leopold
Director

STATE OF IOWA, POLK COUNTY: This instrument was acknowledged before me on the _____ day of _____, 20__, by Richard Leopold as Director of the Iowa Department of Natural Resources.

NOTARY PUBLIC FOR THE STATE OF IOWA

IOWA DEPARTMENT OF REVENUE

BY: _____
Mark R. Schuling
Director

STATE OF IOWA, POLK COUNTY: This instrument was acknowledged before me on the _____ day of _____, 2007, by Mark R. Schuling as Director of the Iowa Department of Revenue.

NOTARY PUBLIC FOR THE STATE OF IOWA